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Ct-16

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WPLRT 22 of 2021

**Anadi Ranjan Chowdhury
Vs.
Smt. Manju Bhattacharjee & Ors.**

Mr. Tapas Ghosh
Mr. Nirupam Sarkar
... For the Petitioner

Mr. Atarup Banerjee
Mr. Jayanta Dey
...For the Respondent
nos. 1 to 3

Mr. Anirban Ray, Ld.G.P
Mr. T.M. Siddiqui
Mrs. Pranati Bandyopadhyay
... For the State

The order passed by the Rent Controller on January 03, 2005 in R.C Case No. 12 of 2004 was challenged by the petitioner/tenant before the learned Tribunal in O.A 374 of 2005(LRTT). The learned Tribunal by the order dated February 24, 2001 affirmed the order of the Rent Controller.

The respondent nos. 1 to 3 herein filed an application under Section 17 of the West Bengal Premises Tenancy Act, 1997 before the Rent Controller praying for fixation of fair rent.

The petitioner in his written objection has stated that the rent in respect of the tenanted premises in an around the month of April 1986 was Rs.500/- per month.

Admittedly, the tenancy is for commercial purpose and it subsisted for more than ten years. Thus the Rent Controller applied the provisions of Section 17(4B) of the West Bengal Premises Tenancy Act, 1997 in the instant case. The Rent Controller after taking into

consideration the rent of the said premises at the relevant period of time assessed the fair rent of the premises at Rs.2,200/- per month.

Being aggrieved against the order of the learned Tribunal, the tenant filed the instant writ petition.

The learned advocate appearing for the petitioner contended that since there is a provision for increase of rent in the agreement between the parties, the Rent Controller as well as the learned Tribunal erred in law by applying the provisions of Section 17(4B) of the West Bengal Premises Tenancy Act, 1997 instead of fixing the Fair Rent in terms of the said agreement.

The learned advocate appearing for the private respondents, however, supported the orders passed by the Rent Controller and the Tribunal.

We have heard the learned advocates appearing for the parties and considered the materials on record.

Section 17 of the West Bengal Premises Tenancy Act, 1997 vests exclusive jurisdiction upon the Controller to fix the fair rent in respect of any premises on an application made by either of the parties. It lays down the provision for fixation of fair rent and the same is to be fixed by taking into consideration the age of the premises, the nature of the tenancy, the period of subsistence of tenancy as well as various other factors.

The Rent Controller has to ascertain and/or fix the fair rent of the tenanted premises in accordance with the provisions laid down in various sub-sections of Section 17. It is well settled that the parties namely the landlord and the tenant cannot fix the Fair rent by way of any

agreement as it falls within the exclusive domain of the Rent Controller. The Rent Controller being a creature of statute has to perform his function as provided in the statute and he is not bound by the terms of the agreement between the parties in the matter of fixation of fair rent.

In view thereof, we are unable to accept the submission made by the learned advocate for the petitioner that the Rent Controller exceeded its jurisdiction by fixing the fair rent without taking into consideration the terms of the agreement between the parties.

For the reasons as aforesaid, we are of the considered view that the orders dated February 24, 2021 passed by the learned Tribunal in OA 374 of 2005 as well as the order of the Rent Controller dated January 03, 2005 in R.C Case no. 12 of 2004 tagged with R.C Case no. 13 of 2004 do not suffer from any infirmity.

Accordingly, WPLRT 22 of 2021 stands dismissed without any order as to costs.

Urgent photostat copy of this order, if applied for, be given to the parties upon compliance of all formalities.

(Hiranmay Bhattacharyya,J.)

(Soumen Sen, J.)

